



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

Ann Marie DeBiase, Director
Air & Radiation Management Administration
Maryland Department of the Environment
2500 Broening Highway
Baltimore, Maryland 21224

February 15, 2000

Dear Ms. DeBiase:

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued its opinion in Environmental Defense Fund (EDF) v. Environmental Protection Agency (EPA), No. 97-1637, that the EPA must make an affirmative determination that the submitted Motor Vehicle Emission Budgets (the budgets) contained in State Implementation Plans (SIPs) are consistent with applicable requirements for attainment of the National Ambient Air Quality Standards (NAAQS) before they are used to test the conformity of Transportation Improvement Programs (TIPs) or Long Range Transportation Plans. In addition, EPA agreed to make these submitted budgets available for public comment and respond to those comments when announcing our determination of their adequacy.

On December 3, 1999, the State of Maryland submitted a proposed SIP Revision, "Modification to the Phase II Attainment Plan for Baltimore Nonattainment Area and Cecil County: Revising the Motor Source Emission Budgets" to EPA for parallel processing, and on December 21, 1999, the State of Maryland formally submitted the revised Phase II SIP. The Phase II submittal contains budgets for the Post 99 Rate of Progress (ROP) plans for the years 2002 and 2005 and the ozone attainment demonstration for the year 2005. On December 21, 1999, we posted the availability of the budgets in the Phase II SIP for the Baltimore Ozone Nonattainment Area on EPA's conformity website for the purpose of soliciting public comment. The comment period closed on January 20, 2000. We received comments from the University of Maryland School of Law on behalf of its client, an organization known as the 1000 Friends of Maryland.

We have reviewed the budgets the Phase II SIP in accordance with the procedures and criteria for review in the following sections of the Conformity Rule: 40 CFR Part 93, Sections 93.118(e)(4)(i) through (e)(4)(vi) and Section 93.118(e)(5). Enclosed is the Technical Support Document (TSD), Adequacy Findings for the Mobile Vehicle Emissions Budgets (the Budgets) in the Revised Phase II Plan [Post 99 Rate of Progress (ROP) and Attainment Plan State Implementation Plan (SIP) Revisions] Submitted by the State of Maryland for the Baltimore Ozone Nonattainment Area. This TSD details our review of the budgets and provides our responses to the comments received. Based upon that review and after consideration of the comments received, EPA finds the budgets in the revised Phase II SIP revision for the Baltimore Ozone Nonattainment Area are adequate for transportation conformity purposes.

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I call your attention to the Tier 2-related discussion in Section III of the enclosed TSD. Because Tier 2 reductions are needed for demonstrating attainment in the Baltimore area, we are including a condition in our adequacy finding that conformity determinations may not take credit for Tier 2 until the budgets of the SIP are revised to reflect Tier 2 benefits. EPA believes that the budgets do not need to be revised immediately to include Tier 2 benefits in order for us to find the budgets adequate. However, since the Tier 2 Rule is now final, without this condition, all the Tier 2 reductions could be used for increases in vehicle miles traveled above those already provided for in the SIP. Therefore, we are including a condition in our adequacy finding which prohibits the use of Tier 2 emission reductions in conformity determinations until the budgets of the Phase II SIP are revised to reflect Tier 2 benefits.

We will be posting today's findings on EPA's website at, <http://www.epa.gov/oms/traq> and we will also announce today's findings on the motor vehicle budgets in the Federal Register. That announcement will be published in approximately one week. The findings of adequacy of the budgets of the revised Phase II Plan for the Baltimore Area Nonattainment Area will be effective 15 days after publication of the announcement in the Federal Register.

If you or your staff have any questions please feel free to contact Marcia L. Spink, Associate Director for Air Programs at (215) 814-2104 or Robert Kramer, Chief, Energy, Radiation and Indoor Environment Branch at (215) 814-2704.

Sincerely,

Judith M. Katz, Director
Air Protection Division

Enclosure

cc: Marsha Kaiser (MDOT)
Howard Simons (MDOT)
Steve Rapley (FHWA,MD)
Harvey Bloom (BMC)
Dianne Franks (MDE)